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15. A motor-driven pump unit according to Claim 14, wherein the mounting means is arranged in the pump unit.

### REMARKS

Claims 14 and 15 have been amended. No new claims have been added. Accordingly, claims 14-24 are currently pending in this application.

#### Rejection under 35 U.S.C. §112, second paragraph

Claims 14-24 were rejected under 35 U.S.C. §112, second paragraph as being indefinite. Specifically, the Examiner objected to the "in particular" language in the preamble of claim 14. Claim 14 has been amended to delete the objectionable terminology and to otherwise clarify the preamble of claim. The Examiner also objected to the language "the pump housing" in claim 15 as lacking antecedent basis. The objectionable language has been removed. No new matter has been added and no narrowing of the scope of the amended claims is intended. For these reasons, Applicants respectfully request that this rejection be withdrawn.

#### Rejection under 35 U.S.C. §103

Claims 14-24 were rejected under 35 U.S.C. §103 as being obvious over U.S. Patent No. 6,078,118 to Reinartz *et al.* (Reinartz) in view of U.S. Patent No. 5,508,577 to Shiga *et al.* (Shiga). The Examiner states that Reinartz discloses a motor-driven pump with all the elements of the present invention except for five elements: 1) the guide elements are arranged in alignment with a commutator having a contact surface that is at a right angle to the rotary axis; 2) an electronic unit with at least two guide elements for carbon brushes, which are parallel to the rotary axis of a the rotating shaft of the motor; 3) that each guide element has a box for holding one of the carbon brushes in an axially movable manner; 4) that each box is limited by a stop surface at an end facing away from the motor; and 5) that arms (of the brushes) extend parallel to the axis of the motor shaft in the direction of the motor. The Examiner states that Shiga discloses the above enumerated elements. From this, the Examiner concludes that it would have been obvious at the time of invention to modify the

motor-pump of Reinartz with the disclosed elements of Shiga.

Applicants respectfully submit that Reinartz is not properly prior art to the instant application. The earliest effective date of the present application is one month prior to the earliest effective date of Reinartz. Under 35 U.S.C. §365(a), the present national stage application is entitled to the filing date of the international application, *i.e.*, application PCT/EP98/01366 which was filed on March 10, 1998. Under 35 U.S.C. §365(b), the international application, in turn, is entitled to the priority of the original German application, *i.e.*, application 197 09 777.4 which was filed on March 10, 1997. Thus, the effective date of the present application is March 10, 1997. Applicant's believe that under 37 C.F.R. §1.55, a certified copy of the German application and a certified English translation are required to perfect a claim of priority. Those documents will be forwarded to the Examiner's attention upon receipt.

In contrast, the earliest effective date of Reinartz is April 10, 1997, which corresponds to the international publication date of international application PCT/EP96/03433 (published at WO97/13067). This international application eventually matured into Reinartz. Other potential effective dates for Reinartz, such as the 35 U.S.C. §371 date and the 35 U.S.C. §102(e) date, are later, *i.e.*, October 16, 1998. Furthermore, the international filing date, *i.e.*, August 3, 1996, is not the effective date of Reinartz under current practice. The Examiner's attention is drawn to MPEP §2136.03(II).

In sum, Reinartz is limited to an effective date of April 10, 1997, while the present application has an effective date of March 10, 1997. For this reason, Reinartz is not prior art to the present application. Thus, the combination of the Reinartz with Shiga is improper and the Examiner has failed to make a prima facie case of obviousness. On this basis the applicants respectfully request that this rejection be withdrawn.

CONCLUSION

In sum, Applicants respectfully submit that the rejection under 35 U.S.C. §112, second paragraph has been overcome through amendment, while the rejection under 35 U.S.C. §103 has been overcome through the removal of one reference as prior art. Applicants respectfully request early action on this application.

Respectfully submitted,

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